THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

+ Writ Petition No16486 of 1997

% Dated 26.11.2007

Settivari Pedda Reddappa and another.

....Petitioners

$ The Joint Collector and others.

....Respondents

! Counsel for the petitioner : Sri N.V.Sumanth
^ Counsel for respondents 1 to 3 : Government Pleader for Revenue
^ Counsel for 4th respondent : Standing Counsel
^ Counsel for 5th respondent
^ Counsel for respondents 6 to 10 : Sri Ch.Ravindranath.

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? Cases referred:

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.16486 of 1997

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Date: 26.11.2007

Between:

Settivari Pedda Reddappa and another.

....Petitioners

And

The Joint Collector and others.

....Respondents

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THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.16486 of 1997

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O R D E R:

The petitioners are cousins. Their fathers, by name Pedda Venkatesu and chinna Venkatesu are brothers. The family of the petitioners held various extents of land, including the one in Survey No.385 of Settivaripalle Village, Gurramkonda Mandal, Chittoor District, admeasuring Ac.20.50 cents. Out of this, an extent of Ac.4.00 was gifted to the Government, through a registered document, dated 07.11.1956, for communal purpose. The petitioners state that the remaining extent of the land i.e., Ac.16.50 cents is under their possession and enjoyment; and when the local revenue authorities sought to demarcate an extent of Ac.10.00 from out of it, they approached this Court by filing W.P.No.23211 of 1995.

The writ petition was disposed of, with an observation that it shall be open to the petitioners to file a

representation before the Revenue Divisional Officer, Madanapelle, 2nd respondent herein, with necessary facts and the latter, in turn, shall decide the question as to whether the said extent of Ac.10.00 was donated by the petitioners or their predecessors, towards Bhoodan, as claimed by the revenue authorities. Such a representation was made by the petitioners on 13.05.1996 and the 2nd respondent, in turn, passed an order, dated 24.09.1996, holding that an extent of Ac.10.00 was gifted by the fathers of the petitioners in favour of Bhoodan Yagna Board, 4th respondent herein. The petitioners challenge the same.

According to the petitioners, no proceedings referable to any Statute or any document, witnessing the alleged transfer of Ac.10.00 of land in favour of the 4th respondent, was filed and that the 2nd respondent passed the impugned order, on certain imaginations.

A counter affidavit is filed on behalf of respondents 1 to 3. The observations made in the impugned order are reiterated and nothing more is stated.

On behalf of respondents 6 to 10, a counter affidavit is filed, stating that a substantial portion of the land in Survey No.385 vested in the Government or the 4th respondent, by virtue of donation or gift, as the case may be, made by the ancestors of the petitioners and that the impugned order does not suffer from any infirmity or

illegality.

Sri N.V.Sumanth, the learned counsel for the petitioners submits that there is no dispute as to the transfer of Ac.4.00 of land, by way of gift, way back in the year 1956, and at the same time, there is nothing on record to show that donation or other transfer was made in favour of the 4th respondent, be it, as regards Ac.10.00 or any other extent in Survey No.385. He also submits that when valuable rights of the parties are involved, the 2nd respondent ought to have based his conclusions and findings, on acceptable material. He contends that except certain self-serving statements, made by different authorities, there is nothing on record to disclose that the petitioners and their family parted with the land. He also draws the attention of the Court to the finding of the 2nd respondent that the possession of the land continued with the petitioners uninterruptedly.

Learned Government Pleader for Revenue, learned Standing Counsel for the 4th respondent, and the learned counsel for respondents 6 to 10, on the other hand, submit that the donation of the land under Bhoodan Yagna Scheme cannot be compared to the other categories of transfers. They contend that the benevolent gesture made by the parents of the petitioners in donating the land of Ac.10.00 is sought to be annulled by raising hyper technical objections.

The family of the petitioners held absolutely an extent of Ac.20.50 cents in Survey No.385 of Settivaripalle Village, Chittoor District. Out of the same, Ac.4.00 was gifted by the ancestors of the petitioners in favour of the Government, through a document registered on 07.11.1956. The petitioners did not make any claim for that land.

In additional to the Ac.4.00 of land, that was gifted by the family of the petitioners, the respondents herein started making a claim for an extent of Ac.10.00 more. Demarcation was sought to be undertaken. At that stage, the petitioners filed W.P.No.23111 of 1995 and the same was disposed of with a direction that the petitioners shall make a representation to the 2nd respondent and that the latter, in turn, shall record necessary findings as to the vesting of the land. It was in this context that the petitioners made a representation, dated 13.05.1996. Though it is not referable to any provisions of law, a detailed consideration and examination thereof was undertaken by the 2nd respondent. He framed the following points for his consideration:

1. Whether the fathers of the appellants have gifted the appeal schedule land i.e. 10.00 Acs. (5.00 Acs. each) in favour of Bhoodana Yagna Board in the year 1956 or not and whether the names of Bhoodana Yagna Board entered in the Revenue Records i.e. in 10(1) and Adangal or not?
2. Whether the Bhoodana Board has accepted the gift deed executed by the

fathers of the appellants or not?

3. Who is in possession and enjoyment of the land at present.

A perusal of the discussion undertaken on point No.1 discloses that there did not exist any gift deed or other document, in relation to the Ac.10.00 of land, as pleaded by the 4th respondent. It was pointed out that the Secretary of the 4th respondent addressed a letter, dated 31.08.1996 stating that the fathers of the petitioners have gifted Ac.5.00 each in Settivaripalle Village, in favour of the 4th respondent. Xerox copies of the gift deeds are said to have been enclosed. It is not in dispute that the alleged gift deeds are not registered ones, nor they are referable to any particular survey number. The authenticity of the xerox copies of the un-registered gift deeds was not at all established. The allegation of the petitioners that those xerox copies do not contain any Survey Number was rejected by the 2nd respondent, with the following observations.

> "As the fathers of the appellants have not gifted any other land in Settivaripalle village except the land in S.No.385 and the entries are also found place in the Revenue Records i.e. 10(1) and Adangal as Bhoodana land, the Mandal revenue Officer, Gurramkonda has rightly issued house site pattas."

It needs to be observed that an extent of Ac.4.00 of land vested in the Government by virtue of a gift deed executed way back in the year 1956 and the petitioners

did not have any objection for grant of house pattas in that land. When there was no gift, in the eye of law, the question of acceptance of the same by the 4th respondent does not arise.

Another aspect of the matter is that the A.P.State Legislature had enacted the Andhra Pradesh Bhoodan and Gramdan Act, 1965 (for short 'the Act'). It prescribes the procedure, under which, the lands vested in the 4th respondent under Section 31 thereof, and the transactions in favour of the 4th respondent are exempted from the purview of Indian Stamp Act and Registration Act, as a compensatory measure. Procedure was also prescribed for determination of the vestature of the land under Sections 12 and 13 of the Act. It is not disputed that the alleged gift made by the fathers of the petitioners was earlier to this Act. However, procedure was prescribed in respect of the donations made before the Act came into force. The record does not disclose that any steps were taken as regards the lands of the petitioners under the said Act.

The impugned order itself discloses that the Commissioner appointed by the 2nd respondent recorded a categorical finding to the effect that the disputed land of Ac.10.00 is in continuous possession and enjoyment of the petitioners. The only basis for treating the land as part of Bhoodan Yagna Scheme appears to be an entry made in the revenue records. It hardly needs any emphasis that

the entries in the revenue records do not confer any rights nor take away the existing ones. Viewed from any angle, the impugned order cannot be sustained in law.

Hence, the Writ Petition is allowed and the impugned order is set aside. There shall be no order as to costs.

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26.11.2007

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B/o

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